

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Council members

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/(954) 797-1101
Prepared by: Marcie Nolan, Planning Supervisor

SUBJECT: Ordinance of the Town of Davie amending the Land Development Code to provide for regulations governing Adult Arcade Amusement Centers.

AFFECTED DISTRICT: Townwide

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, AMENDING SECTION 12-32(B), ENTITLED "TABLE OF PERMITTED USES"; PROVIDING FOR APPROPRIATE ZONING DISTRICTS FOR ADULT ARCADE AMUSEMENT CENTER; AND AMENDING SECTION 12-34 ENTITLED "STANDARDS ENUMERATED"; PROVIDING FOR DETAILED REGULATIONS REGARDING THE LOCATION AND OPERATION OF SUCH USES; AMENDING SECTION 12-503, ENTITLED "DEFINITIONS"; PROVIDING FOR A DEFINITION OF ARCADE OR GAME ROOM AND ADULT ARCADE AMUSEMENT CENTER; PROVIDING FOR INTENT; PROVIDING FOR REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: On February 19, 2003, the Town Council approved a Resolution to initiate a "Planning and Zoning in Progress" in accordance with the Land Development Code Section 12-315 to allow staff to prepare a code amendment providing for the regulations of "adult games and arcades." The intent of this ordinance is to regulate this type of use that mimics the look and feeling of gambling venues.

There is currently no specific performance standard provided for in the Land Development Code regarding this type of use. It can be interpreted that they are permitted in the B-2, B-3 and C1 zoning districts as "game room, arcade." In addition, there is no other legal mechanism in place within the Land Development Code that will allow the Town to ensure that the existing and up-coming operations meet the regulations found in Florida Statute Chapter 849 (Gambling). These Adult Arcade Amusement Centers provide currency-activated amusement games and machines to receive points or coupons which may be exchanged for items such as Publix groceries vouchers, gas vouchers, small appliances, electronics, tabletop items, and restaurant vouchers, etc.

Because of the unique location of the Town adjacent to the proposed legal gambling casinos and the nature of the use, staff recommends that specific performance standards be established in the Land Development Code to provide reasonable controls for this use and prevent

proliferation of “adult arcade amusement centers” that mimic the look and feel of a gambling venue. Staff has proposed allowing this use only in the B-3, Planned Business District requiring Special Permit approval by Town Council. Additional regulations provide for a 500 foot distance separation from houses of worship and schools and hours of operation are limited from 9:00 AM to 11:00 PM, responding to the LPA’s concern that these hours will drastically reduce and discourage any secondary effects. Review of all amusement devices and background checks for owners and operators is also required as part of the Special Permit review process.

Staff has worked with the Town Attorney’s office in the preparation of this proposed Ordinance.

PREVIOUS ACTIONS: None

CONCURRENCES: The Local Planning Agency recommended approval of the Ordinance at the August 13, 2003 LPA meeting (4-0, Mr. Waitkus absent).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to the Town Council for further consideration. the sales trailer.

Attachment(s): Ordinance

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, AMENDING SECTION 12-32(B), ENTITLED "TABLE OF PERMITTED USES"; PROVIDING FOR APPROPRIATE ZONING DISTRICTS FOR ADULT ARCADE AMUSEMENT CENTER; AND AMENDING SECTION 12-34 ENTITLED "STANDARDS ENUMERATED"; PROVIDING FOR DETAILED REGULATIONS REGARDING THE LOCATION AND OPERATION OF SUCH USES; AMENDING SECTION 12-503, ENTITLED "DEFINITIONS"; PROVIDING FOR A DEFINITION OF ARCADE OR GAME ROOM AND ADULT ARCADE AMUSEMENT CENTER; PROVIDING FOR INTENT; PROVIDING FOR REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie desires to amend the Land Development Code; and

WHEREAS, the Town of Davie enacted a zoning in progress on February 19, 2003 to allow staff time to research Adult Arcade Amusement Centers, and

WHEREAS, the Town has determined that Adult Arcade Amusement Centers require additional regulations and requirements to ensure protect the public health, safety, and welfare, and

WHEREAS, the Local Planning Agency held a public meeting, in accordance with State Statutes on August 13, 2003, and

WHEREAS, the Town Council of the Town of Davie held a public hearing in accordance with State Statutes, to solicit input from the public, and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. Section 12-32, Table of Permitted Uses, of the Town Code is amended to read as follows:

(B) COMMERCIAL, OFFICE AND BUSINESS DISTRICTS
GENERAL USE

****	SC	WT	UC						
	&	&	&						
	B-1	B-2	B-3	O	FB	CC	C1	RO	
<u>Adult Arcade Amusement Center</u>	N	N	*	N	N	N	N	N	

P = Permitted by right in this district

N = Not permitted in this district

* = Conditionally permitted subject to detailed use regulations (Section 12-34)

SECTION 2. That Section 12-34, Standards Enumerated, of the Town Code is amended to read as follows:

(DD) Adult Arcade Amusement Center

Intent: It is the intent of this section to regulate adult arcade amusement centers that mimic the look and feel of gambling venues but are operated in accordance with Florida State Statute Chapter 849 (Gambling). Regulation of these venues ensure that they are permitted in the appropriate compatible designation within the Town and that appropriate police powers are establish to ensure reduction in any secondary effects.

(1) Zoning district limitations and uses.

An adult arcade amusement center is permitted in the B-3 zoning district only with a special permit issued in accordance with Article X.

(2) Additional Development Standards for Adult Arcade Amusement Centers.

- (a) *Location:* No special permit shall be granted for an adult arcade amusement center that will be conducted within 500 feet of another establishment, a public or private school, day-care, house of worship, a public library or a

public park. The required 500-foot minimum separation shall be measured from the nearest point of one establishment to the nearest point of the other establishment in a straight line.

This subsection hereof does not apply to a duly licensed adult arcade amusement center in existence before a public or private school, house of worship, a public library or a public park moved within 500 feet of such adult arcade amusement center.

Such use shall not be located within the same plaza or center as any other adult arcade amusement center regardless of separation distances.

- (b) *Hours of Operations:* Such amusement centers shall be prohibited from being open past 11:00 PM and prior to 9:00 AM.
- (c) *Signage:* The use of any imagery referencing gambling, such as, but not limited to slot machines, poker wheels, etc, shall not be permitted when visible from the exterior of the tenant space, including but not limited to wall signage and window signage. The use of strip lighting is expressly prohibited.
- (d) *Parking:* Parking requirements for adult arcade amusement center shall be the same as for "game room, arcade" as referenced in section 12-208, entitled "requirements for off-street parking."

(3) Special Permit Criteria.

- (a) The special permit required by this section shall not be transferable to any other person, and the business shall be conducted only at the location for which the permit is issued.
- (b) The person operating or conducting the business shall inform the Planning and Zoning Division as to changes in the information required in this section.
- (c) A permit shall not be issued if a person with an interest in the business, or an employee of the business, has been convicted of a violation of a Federal or State statute or any local ordinance pertaining to gambling or any other crime involving moral turpitude within five years preceding the application.
- (d) The applicant shall be twenty-one years of age or more.

(4) Occupational License and Registration.

- (a) As a prerequisite to the issuance of an occupational license, an inspection shall be made of the premises by the Building Official, the Fire Marshall, and the Chief of Police, or their designee, each of whom must approve the issuance of such occupational license.
- (b) Registration for each coin-operated amusement device is required at the time of application for an occupational license. For each machine registered, a numbered metal tag or plastic decal shall be issued to the applicant for each machine so covered. Application for machine registration stickers must disclose the location where the machine is to be operated, manufacturer of the machine, the manufacturer's serial number, and the software version, if any. The registration stickers are not transferable person to person, place to place, or machine to machine. No machine should be eligible for a registration sticker if its operation involves any materials elements of chance, unless:

The applicant submits with the application, satisfactory proof that the applicant has registered with the Department of Justice pursuant to 15 United States Code 1171, and

The applicant submits with the application, the records required under federal law to be maintained by those who register under 15 United States Code 1171, and certifies the machine bears the permanent marking required by the federal law.

- (c) The applicant shall keep the registered machines, the records of acquisition, location and disposition required by the federal law, records of prize awards open to police inspection at any time.

(5) Applications.

No person shall operate or conduct an adult arcade amusement center for use by the general public in the Town for money or other reward without first obtaining an occupational license. A person wishing such a license shall make an application therefore in writing, which application shall set forth the following:

- (a) The name under which the business is to be conducted;
- (b) The location at which the business is to be carried on;

- (c) The name, address, and principal occupation of every person with an interest in the business;
- (d) The number of coin-operated machines to be exhibited;
- (e) The serial numbers, manufacturer, and name of each machine;
- (f) Whether the applicant has been ever engaged in operating an amusement arcade and when, where and how long in each place within five years preceding the date of application.

(6) Operations.

- (a) An adult who is twenty-one years of age or older shall be on the adult arcade amusement center premises and shall supervise the operation thereof at all times during all hours of operation.
- (b) No alcoholic beverages including beer and wine shall be consumed on the premises of an adult arcade amusement center.
- (c) No person under the age of eighteen years is permitted on premises of an adult arcade amusement center before 4:00 p.m. on any day the public or private schools are in session, unless such person is accompanied by his or her parent or legal guardian.
- (d) The violation of any of the provision of this section shall be sufficient reason for the Town Council to revoke the special permit issued for the business. However, a violation of any of the provisions of this section is not a criminal violation.

(7) Peace Disturbances: Gambling: Intoxicated Persons, Minors.

No license or owner of any adult arcade amusement center, or any servant, agent or employee of such a licensee or owner, shall permit upon the premises housing a mechanical amusement device arcade any of the following:

- (a) Disorderly persons;
- (b) Gambling, or the use, possession or presence of gambling paraphernalia;
- (c) Intoxicated persons to loiter on the premises;

- (d) Loud noise or music to emerge from the licensed premises, which noise or music is disturbing to the surrounding area; and
- (e) Any licensee or owner, or any servant, agent or employee thereof, shall be presumptively deemed to have permitted the conduct enumerated in subsection (5) hereof if it occurs on the premises housing an adult arcade amusement center.

SECTION 3. That Section 12-503, Definitions, of the Town Code is amended to read as follows:

"Adult arcade amusement center" means an arcade amusement center where more than fifty (50) amusement games or machines which operate by means of the insertion of a coin and which by means of skill may entitle the person playing or operating the game or machine to receive points or coupons which may be exchanged for merchandise only, excluding cash and alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played are available to the public.

"Arcade" or "game room" means:

- (1). An establishment, room or place where more than three (3) coin-operated amusement devices are available to the public;
- (2) An establishment room or place where more than three (3) coin-operated amusement devices are available to the public and which derives more than fifty percent (50%) of its gross revenues in the Town from coin-operated amusement devices.

"Coin-operated amusement device" means an amusement machine, device, or instrument operated by means of the insertion of a coin, bill, currency, credit card, debit card, token or slug, for use as a game, contest of skill or amusement of any description operated in accordance with 849.161, F.S. This definition is not

intended to and does not include merchandise vending machines or coin-operated mechanical or electrical musical instruments or devices.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 6. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2003

PASSED ON SECOND READING THIS ____ DAY OF _____, 2003

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2003